

**COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

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**Investigation by the Department of Telecommunications  
and Energy on its own Motion into the Procurement of  
Default Service for Medium and Large Commercial and  
Industrial Customers**

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**D.T.E. 02-40-B**

**REPLY COMMENTS OF THE DIVISION OF ENERGY RESOURCES**

On April 24, 2003 the Massachusetts Department of Telecommunications and Energy ("Department") issued an Order addressing default service pricing options and procurement strategies. Procurement of Default Service, D.T.E. 02-40-B (2003). The Order announced a Technical Session to be held on May 15, 2003 in order for the Department to "better understand the logistics associated with monthly procurements" for Medium and Large Commercial and Industrial ("C&I") customers and at that technical session it announced a schedule for Initial Comments and Reply Comments. On May 28, 2003, the Massachusetts Division of Energy Resources ("DOER") filed Initial Comments responding to notice by the Department seeking comments in regard to its effort to ensure that Default Service is provided in a manner that is compatible with the development of an efficient competitive market and that benefits of a competitive market are available to all Massachusetts consumers at the end of the Standard Offer period. Other parties filed comments in response to the Department's notice. DOER has reviewed those comments and, as is explained below, provides these Reply Comments for the sole purpose of responding to those comments of other parties that raise issues bearing directly on the positions put forth by DOER.

### **A) DOER Urges the Department to Adopt the National Grid Plan for Implementing Monthly Procurements for Medium and Large C&I Customers**

National Grid has proposed a plan for implementing a change from six-month to monthly procurements.<sup>1</sup> DOER supports the National Grid approach for conducting monthly procurements with exceptions regarding the length of the Department's approval process and the need for 30-day notice for prices. National Grid has proposed a process that makes no adjustment to the approval process of prices and makes price information available to customers in compliance with a 30-day notice standard. As is addressed in Section C below, DOER supports the Constellation proposal to adopt a shortened price approval process. In that Section DOER also proposes the existing 30-day notice policy for large and medium C&I customers be revised. DOER submits that the process timeline proposed by National Grid is not substantively changed by these exceptions.

DOER believes the process proposed, with the aforementioned exceptions, adequately addresses each of the issues that have been suggested by others as potential barriers to such a change.

### **B) DOER Urges the Department to Reject Proposals for Quarterly Procurements for Medium and Large C&I Customers as an Interim Measure**

Each of the Distribution Companies have made it clear that a quarterly rather than a monthly procurement process for medium and large C&I customers is preferred. However, DOER remains convinced that such a change, though causing a very slight improvement over the current system in the timeliness and frequency of price signals, would fall well short of the improvement that monthly default service procurements would have on competitive markets for C&I customers.<sup>2</sup>

First, the Department should consider the timeliness of pricing achieved by

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<sup>1</sup> National Grid has urged the Department to change to quarterly rather than monthly procurements. But, the Company proposed a monthly procurement process in the event the Department chooses to require monthly procurements. National Grid at 1-2.

<sup>2</sup> DOER recognizes that its original comments prior to the Department's April 24 Order had proposed that six month contracts be purchased for 50% of the load every three months in order to have default service prices more closely tied to existing market conditions. DOER Comments (August 9, 2002). This may appear to be inconsistent with what DOER is proposing in this filing. But, DOER reminds the Department that, at the time, the Department had an existing policy regarding six months of fixed prices that it is now reconsidering. DOER's original proposal was urging only a limited revision to that standard.

quarterly procurements as compared to monthly procurements. The Department's main objective in moving away from six-month procurements is to provide prices that are more timely and better matched to current market conditions experienced by competitive suppliers. There are periods in today's six-month default service contracts when the price experienced by customers is as many as eight months after the time of the bid. A move to quarterly procurements improves that slightly to five months. But, prices from a monthly procurement, with some streamlining, would always be no more than two months old. With aggressive streamlining, which DOER believes to be feasible, prices could be constantly less than one month old.

DOER urges the Department to consider the Maine approval process (or some variation), where all factors but price are confirmed until about a week before the contract begins and price approval occurs on the same business day that prices are submitted to the regulator.<sup>3</sup> Along with resolving the issue of energy markets changing between the time of the official bids and their approval,<sup>4</sup> adopting such a process would bring the effective prices closer to the market conditions being experienced by competitive suppliers.

To underscore the importance of a default service price that is current with existing market conditions, DOER refers the Department to migration statistics for April 2003.<sup>5</sup> The data shows that there was a large amount of customer load leaving competitive service from March to April. The amount of load on default service decreased 24%, from 19.67% to 14.87% of total demand. Such large amounts of migration away from the competitive market supports DOER's assertions in the past that default service prices out of synchronization with present market conditions have a negative impact on competitive markets.<sup>6</sup> DOER submits that quarterly procurements would continue a feast or famine market environment for licensed competitive suppliers and brokers. Such a process would be inconsistent with the goal of making default service a short-term, last resort service. It also arguably causes migration risk to be an

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<sup>3</sup> Constellation Comments at 3, and Tr. at 167.

<sup>4</sup> Constellation at 3.

<sup>5</sup> This data was released May 29, 2003 and is available on the DOER website: <http://www.state.ma.us/doer/>

<sup>6</sup> During March, customers moved to default service when they saw April and May default service prices lower than prices being offered in the competitive market. DOER sees no other feasible explanation for such mass movement of customers.

unnecessarily large factor in today's bids.<sup>7</sup> DOER believes all of these migration problems can be addressed by making the more substantial shift to monthly procurements.

Second, DOER recognizes that some alternative measures could be logistically implausible for all G-2 and G-3 customers. For instance, it would be impossible to require real-time pricing in the absence of widespread deployment of interval meters. But, DOER is unconvinced that changing to monthly procurements is logistically too burdensome for the Companies to achieve. DOER also disagrees that such a change would be too costly given the benefits derived.<sup>8</sup>

### **C) DOER Urges the Department to Revise Its Policy on Price Notification**

DOER proposes that this policy be revised in the event that the Department requires a change in the length of the procurement contracts. A removal of the Department's 30-day notice standard for default service price information would make default service prices even more current with existing market conditions. The practice of providing 30-day notice on default service prices is a policy recommended by the Working Group on Default Service Issues ("Working Group"), a consumer working group created by the Department in its Default Service proceeding.<sup>9</sup> In response to a report filed by the Working Group, the Department required 60-day notice for changes to the procurement process and a 30-day notice, using a website and toll-free telephone

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<sup>7</sup> This is due in large part to the ability to compare prices far in advance of going into effect. In addition to this, load changes due to migration are not now adequately forecasted by data provided to bidders, causing great uncertainty about migration from month to month. The Companies report the "adds" and "drops" of customers due to be switched into and out of the competitive market at the time the contract is bid out. But, those numbers are limited to the anticipated switches known at the time of the RFP only for the next coming month. The data does nothing to forecast migration in the remaining months in the six-month contract. See also Constellation at 5.

<sup>8</sup> National Grid and Western Massachusetts Electric ("WMECO") have provided an estimate for information system upgrades. National Grid at 2 and WMECO at 12. DOER notes that a one-time cost of \$100,000 for information system upgrades is not cost prohibitive. Constellation has highlighted existing information needs that are often not met due to limitations of today's systems. Constellation Comments at 5. See also 196, 7-10. DOER urges the Department to consider requiring upgrades to the Companies' information systems to improve the timely sharing of information for the bidding process for all of the default service contracts regardless of its decision to choose quarterly or monthly procurements for medium and large C&I customers.

<sup>9</sup> Pricing and Procurement of Default Service, DTE 99-60-B (June 30, 2000) at 9.

number, in advance of new prices taking effect. The Department has stated that it is willing to consider a revision to that timeline.<sup>10</sup>

DOER has actively participated in this group to ensure adequate notification of customers. In the past, DOER has advocated for a minimum of 30 days of notice to customers in advance of any price changes. But, this was applying a policy approach while all customer classes had the same procurement process. A change to the procurement process for medium and large C&I now opens the door to reconsidering the need for 30-day notice.

DOER points out that such notice is not as critical when the customer is choosing between options rather than considering staying out of the market. The Department has made it clear that it considers the market for medium and large C&I customer class to be adequately developed to begin requiring a different procurement strategy. The Department should apply similar logic to its consideration of removing the 30-day notice standard. In its review of the need for this notice, the Department should consider whether it is appropriate to enable customers to migrate from the competitive market back to default service while the Department is making such efforts to make electric competition work as intended. Consequently, DOER urges the Department to remove the 30-day notice of default service prices for the medium and large C&I customer classes. However, DOER does advocate for notifying customers about a change in procurement strategy, whether it becomes quarterly or monthly. Such a change should involve as much notice as possible.<sup>11</sup>

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<sup>10</sup> Pricing and Procurement of Default Service, DTE 99-60-B (November 6, 2000) at 3 and 4.

<sup>11</sup> DOER suggests at least two bill inserts be provided to customers more than one month prior to putting monthly procurements into effect. It is important to recognize that the obligation of messages in bill inserts that have caused limitations in the past have been mostly limited to the smaller customer classes because of the larger number of messages required regarding access to low income rates in those classes.

**D) Conclusion**

DOER appreciates the opportunity to provide these Reply Comments and welcomes the Department's consideration of them within the context of the overall development of the competitive market in Massachusetts.

Respectfully submitted,

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